

State of California  
BOARD OF EQUALIZATION

**SALES AND USE TAX REGULATIONS**

**Regulation 1702. SUCCESSOR'S LIABILITY.**

*Reference:* Sections 6592, 6701, 6811, 6812, 6813 and 6814, Revenue and Taxation Code.

**(a) WHEN DUTY TO WITHHOLD PURCHASE PRICE ARISES.** The requirement that a successor or purchaser of a business or stock of goods withhold sufficient of the purchase price to cover the tax liability of the seller, arises only in the case of the purchase and sale of a business or stock of goods under a contract, providing for the payment to the seller or person designated by him of a purchase price in money or property or providing for the assumption of liabilities and only to the extent thereof, and does not arise in connection with other transfers of a business such as assignments for the benefit of creditors, foreclosures of mortgages, or sales by trustees in bankruptcy.

**(b) AMOUNTS TO WHICH LIABILITY EXTENDS.** The liability of the successor or purchaser of a business or stock of goods extends to amounts incurred with reference to the operation of the business by the predecessor or any former owner, including the sale thereof, even though not then determined against him or her, which include taxes, interest thereon to the date of payment of the taxes, and penalties including penalties for nonpayment of taxes. Liability also extends to penalties determined and unpaid at the time of sale for negligence or intentional disregard of the Sales and Use Tax Law or authorized rules and regulations, and fraud or intent to evade the Sales and Use Tax Law or authorized rules and regulations.

**(c) RELEASE FROM OBLIGATION.** The purchaser of the business or stock of goods will be released from further obligation to withhold the purchase price if he obtains a certificate from the Board stating that no taxes, interest, or penalties are due from a predecessor. He will also be released if he makes a written request to the Board for a certificate and if the Board does not issue the certificate or mail to the purchaser a notice of the amount of the tax, interest, and penalties that must be paid as a condition of issuing the certificate within 60 days after the latest of the following dates:

- (1) The date the Board receives a written request from the purchaser for a certificate.
- (2) The date of the sale of the business or stock of goods.
- (3) The date the former owner's records are made available for audit.

The certificate may be issued after the payment of all amounts due under the Sales and Use Tax Law, according to the records of the Board as of the date of the certificate, or after the payment of the amounts, including amounts not yet ascertained, is secured to the satisfaction of the Board. Such security is not subject to the limitations contained in Section 6701 of the Revenue and Taxation Code.

**(d) ENFORCEMENT OF OBLIGATION.**

(1) The liability is enforced by service of a notice of successor liability not later than three years after the date the Board receives written notice of the purchase of the business or stock of goods. The successor may petition the Board for reconsideration of the liability within 30 days after service. The liability becomes final, and the amount due and payable, in the same manner as determinations and redeterminations of other sales and use tax liability.

(2) On or after January 1, 1990, a successor shall be relieved of any penalty originally imposed upon the predecessor included in the notice of successor liability regardless of when the notice was issued where there is no relationship between the successor and predecessor. A relationship exists between the successor and predecessor if there is any common ownership or if the successor was a responsible person as defined in Sales and Use Tax Regulation 1702.5 (b)(1) in the predecessor entity. A successor seeking relief of a penalty must file a written statement with the Board under penalty of perjury stating the facts upon which he or she bases the claim for relief.

## **Regulation 1702. SUCCESSOR'S LIABILITY.**

**(e) SEPARATE BUSINESS LOCATIONS.** Where one person operates several business establishments, each at a separate location, each establishment is a separate "business" and has a separate "stock of goods" for purposes of determining the liability of a successor. A purchaser of the business or stock of goods of any such establishment is subject to liability as a successor with respect to that establishment even if he does not purchase the business or stock of goods of all the establishments.

**(f) PURCHASE OF A PORTION OF A BUSINESS.** A person who purchases a portion of a business or stock of goods may become liable as a successor as, for example, where he purchases substantially all of the business or stock of goods or where the business or stock of goods is purchased by two or more persons. In cases of doubt as to possible liability, the purchaser should obtain a certificate as provided in subdivision (c) above.

*History:* Amended November 18, 1953.

Amended and renumbered October 8, 1969, effective November 9, 1969.

Amended December 7, 1977, effective January 19, 1978. In (c) added 90 days from date of sale as alternative time period.

Amended December 6, 1978, effective January 28, 1979. Amends subsection (c) to provide for issuance of a sales tax clearance certificate if satisfactory security is posted.

Amended February 6, 1980, effective March 29, 1980. Added reference to section 6814, added subsection (d), and relettered remaining sections.

Amended August 19, 1987, effective November 7, 1987. In subdivision (a), corrected a typographical error. In subdivision (c), added time limits to regulation that specify when purchaser of business or stock of goods will be released from tax liability of seller.

Amended July 31, 1990, effective October 13, 1990. Amended paragraph (b) to clarify that the liability of a successor extends to all taxes, penalties and interest incurred by the predecessor. Also added the words "business or" in the first sentence. Amended paragraph (d)(1) to provide that a notice of successor liability must be served by the Board not later than three years after the date the Board is notified of the purchase of the business or stock of goods. Paragraph (d)(2) explains that the successor may be relieved by the Board of penalties for failure to withhold sufficient of the purchase price to cover the amount of sales and use taxes owed by the predecessor if such failure is due to reasonable cause and circumstances beyond the successor's control and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect.

Amended July 19, 1999, effective October 27, 1999. In subdivision (c) the phrase "of the Revenue and Taxation Code" was added. Letter case errors corrected in titles to subdivisions (d) and (f). In subdivision (d)(2) replaced the word "may" in the first sentence with "shall"; added the phrases "originally imposed upon the predecessor" and "where there is no relationship between the successor and predecessor;" also added a new second sentence and deleted the phrase "if it is determined . . . was not willfully negligent." In Subdivision (f) the word "subdivision" was added.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*